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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,327	08/01/2003	Andrew Kilkenny	340.180	5230
27019	7590	12/08/2004	EXAMINER	
THE CLOROX COMPANY 1221 BROADWAY PO BOX 2351 OAKLAND, CA 94623			DOUYON, LORNA M	
			ART UNIT	PAPER NUMBER
			1751	

DATE MAILED: 12/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/632,327

Applicant(s)

KILKENNY ET AL.

Examiner

Lorna M. Douyon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1 page.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Abstract

1. The abstract of the disclosure is objected to because it need not recite "The present relates to" in line 1 of the paragraph. In addition, "use to" in line 1 should be replaced with "usedu to". Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

2. Claims 1-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-31 are indefinite because the proportions of the organic solvent and sodium hydroxide or potassium hydroxide are not defined as to whether they are "by weight" or otherwise. In addition, claims 2, 4, 6, 8 are indefinite in the recital of "GRAS" because this is an acronym and the recital of "comprising only GRAS ingredients" because the claim to which each of them depends upon, that is claim 1, comprises hydroxide which is not a GRAS ingredient. Could it be that the composition further comprises said ingredient?

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who

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has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-12 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Barby et al. (US Patent NO. 4,448,704), hereinafter "Barby".

Barby teaches an article which is suitable for wiping hard surfaces such as glass to give a streak-free finish, the article comprises a substrate carrying a homogeneous aqueous composition (see abstract). In Example 43, Barby teaches an article wherein the composition comprises a total of 0.09% nonionic surfactants, 0.01% partially esterified resin, 0.01% hydroxyethyl cellulose with 2.5 moles of substituent combined (equivalent to GRAS ingredient), up to 100% demineralized water and the pH of the composition was also adjusted to 9.0 with sodium hydroxide, and the article is wiped over the surface of a black tile as in Example 1 and the composition gave excellent results (see col. 13, lines 14-32). The amount of sodium hydroxide used to adjust the pH to 9.0 should inherently be at least 0.05%. Hence, Barby anticipates the claims.

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5. Claims 1-13, 16, 18, 21, 24, 27-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Barnabas et al. (Pub. No. US 2003/0119705), hereinafter "Barnabas".

Barnabas teaches a pre-moistened wipe for treating a surface, the moistened wipe comprising a substrate and an aqueous composition (see abstract). In Examples Q and R, Barnabas teaches alkaline pre-moistened wipes comprising a substrate and loaded onto the substrate an aqueous composition comprising 0.12 wt% C12-16 betaine and 0.1 wt% sodium hydroxide, the composition having a pH at about 11 (see [0200] and Table on page 16). Barnabas also teaches a process of cleaning a surface, preferably a hard surface, comprising the step of contacting, preferably wiping, said surface with the pre-moistened wipe (see section [0166] on page 14). Barnabas teaches the limitations of the instant claims. Hence, Barnabas, anticipates the claims.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

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the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 14, 17, 19, 22 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnabas as applied to the above claims.

Barnabas teaches the features as described above. In addition, Barnabas teaches that the alkaline aqueous composition has a pH range from about 6 to about 13 (see section [0060] on page 5). Barnabas also teaches that the liquid composition may comprise a variety of other optional ingredients depending on the technical benefit aimed for and the surface treated, for example, polymers (see section [0155] on page 13). Barnabas, however, fails to specifically disclose a wipe wherein the liquid composition comprises a polymer or has a pH greater than about 12.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate polymers into the liquid composition because Barnabas teaches that optional ingredients like polymers may be added to the composition to obtain the technical benefit that is aimed for and to modify the pH to greater than about 12 because Barnabas teaches an alkaline pH range from 6 to about 13 and optimization for the best results is within the level of ordinary skill in the art. As to optimization results, a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the *prima facie* case of obviousness. See *In re Boesch*, 617 F.2d 272, 276, 205 USPQ 215, 219 (CCPA

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1980). See also *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936-37 (Fed. Cir. 1990), and *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). In addition, a *prima facie* case of obviousness exists because the claimed ranges "overlap or lie inside ranges disclosed by the prior art", see *In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976; *In re Woodruff*, 919 F.2d 1575, 16USPQ2d 1934 (Fed. Cir. 1990). See MPEP 2131.03 and MPEP 2144.05I.

9. Claims 15, 20, 23 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnabas as applied to the above claims, and further in view of Barger et al. (US Patent No. 6,562,142), hereinafter "Barger".

Barnabas teaches the features as described above. Barnabas, however, fails to disclose a hydrophilic nanoparticle into the wipe.

Barger teaches a hard surface treating composition comprising nanoparticles with particle sizes ranging from about 2 nm to about 400 nm, for example, LAPONITETM such that when applied to a hard surface, the hard surface is hydrophilically modified and exhibits surprising and significantly improved wetting and sheeting, quick drying, uniform drying, cleaner appearance and improved transparency properties (see col. 10, lines 18-64; col. 12, lines 33-50).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the nanoparticles of Barger into the liquid composition in the wipe of Barnabas because this will provide the composition with surprising and significantly improved wetting and sheeting, quick drying, uniform drying, cleaner appearance and improved transparency properties as taught by Barger.

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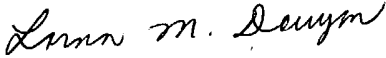
Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references are considered cumulative to or less material than those discussed above.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272-1313. The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Lorna M. Douyon
Primary Examiner
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